

REMARKS

Claims 1-16 and 18-22 are pending. Claims 8-15 have been withdrawn from consideration in response to a restriction requirement. Claim 17 has been canceled. Applicants herewith propose to amend claims 1 and 20 but do not propose to cancel or add any new claims. Thus, upon entry of this amendment claims 1-7 and 16-22 will be active in this case.

Applicants acknowledge Examiner Marschel's indication that claims 2, 3, 7, 16, 18, 19 and 22 are allowable. Applicants believe that the proposed amendment should be entered because it does not raise any new issues of patentability, would not necessitate further searching on the part of the Examiner and it puts the remaining claims in condition for allowance. Applicants also respectfully request Examiner Marschel to consider and enter the attached Rule 132 Declaration, which is submitted to clarify Figure 11, which supports applicants' proposed amendment.

The only remaining rejection in this case is under 35 USC § 112, first paragraph. According to the Examiner, the term "high affinity" in claim 1 lacks written description in the specification. The examiner states that "[t]he cited Figures appear to support the binding of AA, AB, and BB homodimer with equivalent affinities but there is no written description in the specification as filed directed to 'high affinity'."

In response, applicants herewith propose to amend claim 1 to recite that the receptor protein binds the AA and BB homodimer and AB heterodimer with substantially equivalent affinities. The Rule 132 declaration of Dr. Donald Bottaro confirms what Examiner Marschel has already pointed out, that according to the figures, the claimed protein binds AA, AB and BB homodimers with equivalent affinity.

However, in further response to the Examiner's question, applicants direct the Examiner's attention to the specification at page 52, in the first full paragraph, where "high affinity binding" is described. Specifically, applicants stated that "[t]he  $K_d$ s were 0.4 nM and 0.5 nM for 32D- $\alpha$ R and 32D- $\beta$ R cells, respectively (Fig. 11)" and that 32D- $\alpha$ R cells also showed a high binding affinity ( $K_d$ = 0.4nM) for  $^{125}$ I-PDGF-AB. Dr. Bottaro explains that the  $K_d$  values set forth above would be considered to represent a "high binding affinity" to those of skill in the art.

The Examiner also rejects claim 20 under 35 USC § 112, first paragraph, for the alleged reason that the  $\beta$  platelet-derived growth factor receptor protein is not enabled. Applicants vigorously traverse this rejection for reasons already of record. Indeed, the Examiner's argument that the specification fails to set forth "essential subject matter" is not well-taken. The sequence of the  $\beta$  platelet-derived growth factor receptor protein was in the public domain at the time of the invention. Accordingly, it was not necessary nor even desirable to set forth this sequence in the specification. Under well-accepted patent practices, it was proper for applicants to have relied upon a reference which provided this sequence. In any event, this issue will have been rendered moot with the entry of the proposed amendment.

#### CONCLUSION

In light of the above proposed amendment, explanations and declaration of Dr. Donald Bottaro, applicants assert that the specification and claims meet every requirement under § 112 and

Serial No. 07/915,884

that all the active claims, 1-7, 16 and 18-22, are in condition for allowance. Early notification thereof is earnestly solicited. Examiner Marschel is invited to contact the undersigned at (202) 672-5477 to discuss any matters related to this case.

Respectfully submitted,

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Date

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Attachments:  
Declaration with attachments